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Amendment No. 1 to HB1354

Briley
Signature of Sponsor

AMEND Senate Bill No. 1804*

House Bill No. 1354

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 46, is amended by adding Sections 2 through 7 as a new chapter thereto.

SECTION 2. This chapter recognizes that owners of private property upon which a cemetery or graves are located have a duty to allow reasonable ingress and egress to the cemetery or graves by certain specified eligible persons.

SECTION 3. For the purposes of this chapter, unless the context otherwise requires:

(1) "Cemetery" means any land or structure in this state dedicated to and used for interment of human remains;

(2) "Eligible persons" mean family members, descendants and designees of family members of deceased persons buried in such cemetery, and to persons engaging in genealogical research;

(3) "Grave" means a space of ground used for lawful interment of human remains; and

(4) "Human remains" or "remains" means the body of a deceased person and includes the body in any stage of decomposition and cremated remains.

SECTION 4.

(a) In order for a family member, descendant or the designee of a family member of a deceased person, or a person engaging in genealogical research to exercise the right of ingress and egress to a cemetery or to graves on private property as eligible persons, such friend or researcher must have been specifically designated in writing as such by a member of the family or a descendant of the deceased.

(b) Upon the request of an eligible person, an access route to the cemetery or graves shall be designated by the landowner. An eligible person shall not be authorized to use any access route other than those designated by the landowner.

(c) Entry upon the private property of another for the purpose of accessing a cemetery or graves shall only occur at a reasonable time, under reasonable circumstances and in a reasonable manner as determined by the landowner..

(d) An eligible person shall notify the landowner in writing or in person prior to accessing a cemetery or grave as permitted by this chapter, unless the landowner has waived such notification. All eligible persons exercising access to a cemetery or to graves pursuant to this chapter shall conduct themselves in a manner that does not damage private properties, the cemetery or graves. All such persons are liable to the owner of private properties for any damage occurring from their ingress to or egress from the cemetery or graves.

(e) Any person who enters upon the property of another for the purpose of accessing a cemetery or graves who is not an eligible person and any eligible person who undertakes ingress or egress in a manner contrary to this chapter, is subject to all remedies provided by this chapter and any other applicable provision of law

SECTION 5. Eligible persons may exercise ingress and egress only for the purposes of:

(1) Visiting graves;

(2) Maintaining, preserving and beautifying the grave site or cemetery;

(3) Burying human remains in a cemetery plot by those persons granted rights of burial to such cemetery plot; and

(4) Conducting genealogical research.

SECTION 6.

(a) Any eligible person denied reasonable access to a cemetery or graves located on private property, including the denial to use a vehicle on such property, may

institute a proceeding in the chancery court of the county in which the cemetery or graves are located to enjoin the owner of the private property, adjoining land owner or the occupant of such property, from denying the claimant reasonable ingress and egress to the cemetery or graves for the purposes set out in Section 5 of this act. In granting injunctive relief, the chancery court may set the frequency of access, as well as the hours and duration of access.

(b) Any owner of private property who is of the belief that a person is not an eligible person as defined by this chapter or believes that an eligible person is entering upon the property of such person in violation of this chapter may institute a proceeding in the chancery court of the county in which the cemetery or graves are located to enjoin such person from further entry upon such private property. In granting injunctive relief, the chancery court may deny further access of the person to the cemetery or graves located such private property or may set the frequency of access, circumstances under which access may occur, the manner of access as well as the hours and duration of access.

SECTION 7. This act shall take effect July 1, 2007, the public welfare requiring it.